

REMARKS

Applicants do not agree with the Examiner's analysis of claims 18 and 25 and U.S. Patent No. 6,222,660 to Traa. Independent claims 18 and 25 include a limitation based on which the determination whether the error rate is increasing or decreasing is carried out in relation to time (i.e., "increasing or decreasing with time"). The paragraph referred to by the Examiner (col. 3, lines 1-21) and Fig. 2 do not discuss or show timing of the measurements of the determined error rate. As explained in col. 3 lines 6-9 of Traa, the determination is based on sweeping "through a range of voltages while observing output from the BER counter". Time dependency of the error rate is not considered by Traa at all.

Because Traa failed to disclose all the limitations of the independent claims, the applicants are of the opinion that the independent claims are novel. There is nothing in Traa that would motivate a person skilled in the art to add the limitation of checking time dependency of the error rate to the teaching of Traa. Therefore, applicants are also of the opinion that the independent claims 18 and 25 are not obvious. In consequence all dependent claims are novel and not obvious.

In keeping with applicant's duty of candor, enclosed is Form PTO-1449. A copy of Japanese Patent No. JP01-103334, cited in Japan, along with an English translation and the Rule 17(p) fee of **\$180.00** is enclosed.

Petition is hereby made for a one-month extension of the period to respond to the outstanding Official Action to April 30, 2008. A check in the amount of \$120.00, as the Petition fee, is enclosed herewith. If there are any additional charges, or any overpayment, in connection with the filing of the amendment, the Commissioner is hereby authorized to charge any such deficiency, or credit any such overpayment, to Deposit Account No. 11-1145.

Wherefore, a favorable action is earnestly solicited.

Respectfully submitted,

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.

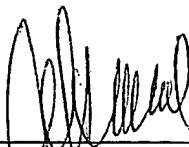
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A handwritten signature in black ink, appearing to read 'Alan Israel', is written over a horizontal line.

Alan Israel

Reg. No. 27,564